where the facts were the same, but here was the additional fact that he had lied, abundantly proved, so that no violence need be done the doctrine of *stare decisis*.

LIFE INSURANCE—DEFENSE OF SUICIDE.—KNIGHTS TEMPLARS' AND MASONS' LIFE INDEMNITY CO. v. JARMAN, 104 Fed. 638.—A statute made suicide no defence to an insurance policy. *Held*, that suicide was used in its popular sense as comprehending all cases where the insured took his own life, whether while sane or insane. Sanborn, circuit judge, dissenting.

There is a long line of authorities that support the dissenting judge. *Manhattan Life Ins. Co.* v. *Broughton*, 109 U. S. 121, is representative of that view, and it would seem that it is not entirely incorrect to apply a metaphysical solution to problems like the present. Technically, suicide certainly implies an element of volition. See *Hancock Mut. Life Ins. Co.* v. *Moore*, 34 Mich. 45.

LIMITATION OF ACTIONS—WHAT PREVENTS BAR OF STATUTE.—PHOENIX LUMBER CO. v. HOUSTON WATER CO., 59 S. W. 552 (Tex.).—Plaintiff commenced his suit on a contract, within prescribed time. Afterward he amended his complaint, making it an action in tort, claiming that the same facts would sustain either action. *Held*, complaint setting up tort not having been filed within six years was barred.

Bingham v. *Talbot*, 63 Tex. 273; *Salt Co.* v. *Heide*, 80 Tex. 349; *McLane* v. *Belvin*, 47 Tex. 502; and many other Texas cases are cited in support of the decision, but it is contrary to the purpose of the Statute of Limitations, which is to take away a remedy from those who do nothing toward the assertion of their rights within the prescribed time, and not to overreach by a mere technicality a man who commences to prosecute his suit but makes a mistake as to the proper form of action. In *Premo* v. *Lee*, 56 Vt. 60, plaintiff sued in his own name before the expiration of the statute, and this suit, it was held, removed the bar as to a suit subsequently brought in his name as assignee, which was the proper form.

MASTER AND SERVANT—DEFECTIVE APPLIANCES—QUESTION FOR JURY.—GREAT NORTHERN RY. CO. v. KASISCHKE, 104 Fed. 440.—A railroad coal shed had chutes that tripped automatically and let the coal into the tender. On a certain occasion one of these chutes refused to work, and plaintiff, being ordered, pulled it out. The coal came upon him and injured him. *Held*, that although the plaintiff knew of the defect he did not as a matter of law assume the risk from the defective chute. Sanborn, J., dissenting.

The present question is a close one. The facts are such as to show some knowledge on the plaintiff's part of the defects in the chutes. That it was not absolute enough to take it out of the jury is not altogether clear.

PROCESS—NON-RESIDENT—ENTICING INTO STATE—OPPORTUNITY TO LEAVE.—OLEAN ST. RY. CO. v. FAIRMOUNT CONS. CO., 67 N. Y. Supp. 165.—The president of a foreign corporation went to New York at the invitation of a creditor of the corporation to confer with the latter concerning a settlement of a matter in dispute. On their first meeting the president expressed his inability to settle the claim at the time. At this juncture a process-server stepped up and served a summons on the president in the creditor's action on the claim. *Held*, even in absence of evidence of fraudulent enticement, the service should be set aside, as the creditor was bound to give the president a reasonable opportunity to leave the State after the termination of the conference.